

REMARKS

This is intended to be a complete response to the Official Action mailed August 10, 2005, in which claims 1-10, 12-15 and 18-21 were rejected. Applicant has added claims 26 and 27, amended claims 2, 5, 6, 12-15 and 18-20, and cancelled claims 1, 4, 11, 16, 17 and 21-25, without prejudice. Newly added claim 26, replaces claim 11, a claim which was objected to as being dependent upon a rejected base claim, and claim 26 includes all of the limitation of original claim 11, its base claim (original claim 1) and an intervening claim (original claim 4).

ELECTION/RESTRICTIONS

In the Office Action dated August 10, 2005, Applicant was required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

During a telephone conversation with Marc Brockhaus on August 1, 2005, a provisional election was made, without traverse, to prosecute the invention of Species I, namely claims 1-15 and 18-21.

Applicant hereby affirms the election by Marc Brockhaus of Species I. The claims currently pending in the application which read on the embodiment of a rotary valve shown in Figs. 1-5 are newly added claims 26 and 27, and original claims 2, 3, 5, 6, 12-15 and 18-20 (as amended).

PRIORITY

In the Office Action the Examiner stated that Applicant's claim for domestic priority under 35 U.S.C. 119(e) failed to provide adequate support under 35 U.S.C. 112 for claims 1-25 of the application because the specification of the application does not claim the priority from the provisional application.

Applicant has, by the present amendment, incorporated into the specification of the subject application paragraph [001A] which sets forth a proper claim for domestic priority under 35 U.S.C. 119(e). Therefore, it is respectfully requested that the Examiner's rejection of claims 1-25 under 35 U.S.C. 112, as applicable to the claims now pending in the application, be withdrawn.

SPECIFICATION

Applicant has also amended paragraph [0024] of the specification to correct minor informalities noted by the Examiner in the Office Action. Such amendments are not new matter, are proper and should be entered. Such is respectfully requested.

REJECTION UNDER 35 U.S.C. § 112

In the Office Action dated August 10, 2005, the Examiner rejected claims 7-10 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The before stated rejection has been obviated by the present amendment in that claims 7-10 have been amended to be more definite. Thus, no further comments concerning the rejection of claims 7-10 under 35 U.S.C. §112, second paragraph, are believed necessary in order to be fully responsive to the Office Action dated August 10, 2005.

REJECTION UNDER 35 U.S.C. § 102

In the Office Action dated August 10, 2005, the Examiner rejected claims 1, 4-10, 12, 15 and 19-21 under 35 U.S.C. 102(b) as being anticipated by Reed (3,561,487). In support of the rejection the Examiner stated:

In regards to claims 1 and 19, Reed discloses a vessel assembly having a vessel with a sidewall (9 in Figure 1) that defines a cavity, a valve assembly supported by the sidewall and extending into the cavity (Figure 1) comprising of a barrel (2 in Figure 2) with a wall defining a chamber and having at least one opening (5a, 4a and 12 in Figure 2). The valve member is movable between an open and closed position.

Regarding claims 4, 5, 20, and 21, Reed discloses a valve member with an inner barrel (1 in Figure 2) having a wall defining an opening (5b and 4b in Figure 2) with an outer barrel (2 in Figure 2, previously barrel from claims 1 and 19) also containing

openings. The inner barrel is rotated relative to the outer barrel (column 1, line 51), which allows the valve to be opened or closed.

In regards to claim 6, Reed discloses a vessel assembly with threads (ridge and groove combination 18 and 19 in Figure 2) on the wall of the barrel.

Regarding claim 7, Reed discloses a vessel assembly of two barrels that contain sidewalls.

Regarding claim 8, Reed discloses a vessel assembly of two barrels that contain end walls. The end wall of the outer barrel is taken to be the surface that interacts with the flange (3a in Figure 2).

Regarding claim 9, Reed discloses a vessel assembly of two barrels that contain an inner barrel with a sidewall and an outer barrel with an end wall.

Regarding claim 10, Reed discloses a vessel assembly of two barrels that contain an inner barrel with an end wall and an outer barrel with a sidewall.

In regards to claim 12 and 14, Reed discloses a structure that would be able to operate within a fluid-containing surface or tubing (Col. 1, line 7). The structure of Reed would be able to handle fluid flows. The examiner takes the tubing to be a pipe.

The before stated rejection of claims 1, 4-10, 12, 15 and 19-21 is obviated in part, and respectfully traversed in part for the following reasons.

Claims 1, 4, and 21 have been cancelled and claims 2, 3, 5, 6-10, 12, 14, and 15 have been amended to depend from newly added claim 26, an independent claim which is based on original claims 1, 4, and 11, and which has been indicated allowable by the Examiner. Claim 19 and 20 have also been amended and are thus believed patentable over the art of record.

Claims 2, 3, 5, 6-10, 12, 14 and 15, as amended, contain each and every limitation of newly added claim 26 (a claim indicated allowable by the Examiner) plus the additional limitations recited in the before-mentioned dependent claims. Therefore, it is Applicant's belief that the Examiner's rejection of dependent claims 2, 3, 5, 6, 12, 14 and 15 has been overcome and the rejection of claims 1, and 4, has been obviated by cancellation of such claims.

As previously stated, the Examiner also rejected claims 19-21 under 35 U.S.C. 102(b) as being anticipated by Reed ('487). The before stated rejection of claims 19-21 is obviated in part in that claim 21 has been cancelled, and is respectfully traversed in part as applicable to claims 19 and 20 as amended. Claim 19, as amended, recites a valve assembly which includes a valve member having the following limitations, namely:

a valve member having a threaded inner barrel for receiving a sensor assembly, the threaded inner barrel having a wall containing at least one opening therein, the valve member movable between a closed position and an open position wherein, when the valve member is positioned in the open position, the at least one opening in the wall of the inner barrel is aligned with and in fluid connection with the at least one opening in the wall of the outer barrel whereby the fluid is permitted to flow into the chamber, and when

the valve member is positioned in the closed position, the at least one opening in the wall of the inner barrel of the valve member is aligned with the wall of the barrel whereby fluid is prevented from flowing into the chamber. (emphasis added)

While it may be true that Reed ('487) discloses a rotary valve, there is no disclosure, teaching or even suggestion in Reed to provide a valve member having a threaded inner barrel for receiving a sensor assembly as recited in Applicant's claims 19 and 20, as amended. Therefore, it is respectfully requested that the Examiner withdraw the rejection as applicable to Applicant's claims 19 and 20, as amended, as being anticipated by Reed ('487) and pass such claims to issue.

In the Office Action dated August 10, 2005, the Examiner also rejected claims 1, 6, 12, 13 and 18-20 under 35 U.S.C. §102(b) as being anticipated by Ingram (4,320,343). In support of the rejection, the Examiner stated:

In regards to claims 1 and 19, Ingram discloses a vessel assembly having a vessel with a sidewall (112 in Figure 1) that defines a cavity, a valve assembly supported by the sidewall and extending into the cavity (Figure 1) comprising of a barrel (100 in Figure 1) with a wall defining a chamber and having at least one opening. The valve member is movable between an open and closed position.

In regards to claim 6, Ingram discloses a vessel assembly with threads (110 in Figure 1) on the wall of the barrel.

In regards to claim 12-13, Ingram discloses a valve for exposing a probe to a fluid to measure the properties (Col. 1, line 8). The valve is able to be used for pressurized electrolyte solution (Col. 1, line 10). The probe is able to be used in a fluid container (Col. 2, line 32). The examiner takes the transponder of claim 13 to be a fluid container.

The before-mentioned rejection of claims 1, 6, 12, 13 and 18-20 under 35 U.S.C. 102(b) as being anticipated by Ingram ('343) is obviated in part by the cancellation of claim 1, and is respectfully traversed as applicable to claims 6, 12, 13 and 18-20, as amended.

Claims 6, 12 and 13 have been amended to depend from newly added claim 26, a claim indicated allowable by the Examiner. Thus, claims 6, 12, and 13 contain, in addition to the limitations set forth in each of such claims, each and every limitation of newly added independent claim 26.

It is respectfully submitted that Ingram ('343) does not teach, disclose or even suggest a vessel assembly as recited in newly added claims 26 and 27, let alone the vessel assembly as recited in claims 6, 12 and 13 (as amended). Therefore, it is respectfully requested that the Examiner withdraw the rejection of claims 6, 12 and 13 as being anticipated by Ingram ('343) under 35 U.S.C. §102(b) and pass such claims to issue.

As previously stated, the Examiner also rejected Applicant's claims 18-20 under 35 U.S.C. §102(b) as being anticipated by Ingram ('343). In support of the rejection the Examiner stated:

In regards to claim 18, Ingram discloses a sensor assembly that comprises a container with a sidewall (112 in Figure 1) and a fluid (113 in Figure 1), a valve assembly that is supported by the sidewall with a portion extending into the cavity of the container and a barrel (100 in Figure 1) having a wall and at least one opening, a valve member movable between an open and closed position, and a sensor (300 in Figure 1) that is removable from the barrel (Col. 2, line 14).

In regards to claim 20, Ingram discloses an outer barrel (100 in Figure 1) and an inner barrel (200 in Figure 3) with at least one opening (210 in Figure 3) that allows fluid passage into an interior chamber (214 in Figure 4).

For the reasons set forth herein after, it is Applicant's belief that claims 18-21 (as amended) are not anticipated by Ingram ('343) within the meaning of 35 U.S.C. §102(b). That is, claim 18 has been amended to recite a "device" formed as a combination of a "sensor assembly" and a "valve assembly." Ingram ('343) does not teach, disclose or even suggest a device for obtaining sensor reading within a container having a sidewall defining a cavity and containing a fluid wherein the device is constructed of a valve assembly, a barrel, a valve member and a sensor assembly as recited in claim 18; or a valve assembly having a barrel and a valve member as recited claims 19 and 20 now pending in the application. That is, it is Applicant's belief that Ingram ('343) does not teach, disclose or even suggest a device as-recited in claim 18 (as amended) which contains a valve assembly wherein the valve assembly is defined as follows:

...a valve member having a threaded inner barrel for receiving the sensor assembly, the wall of the inner barrel having at least one opening therein, the valve member movable between a closed position and an open position wherein when the valve member is positioned in the open position the at least one opening in the wall of the inner barrel is aligned with and in fluid connection with the at least one opening in the wall of the outer barrel whereby fluid is permitted to flow into the chamber, and when the valve member is positioned in the closed position the at least one opening in the wall of the inner barrel of the valve member is aligned with the wall of the barrel whereby fluid is prevented from flowing into the chamber;
...(emphasis added)

Similarly, it is Applicant's position that Ingram ('343) does not teach, disclose or even suggest a valve assembly as recited in claim 19 (as amended), and thus claim 20 which depends therefrom, wherein the valve member is defined as follows:

...a valve member having a threaded inner barrel for receiving a sensor assembly, the threaded inner barrel having a wall containing at least one opening therein, the valve member movable between a closed position and an open position wherein when the valve member is positioned in the open position the at least one opening

in the wall of the inner barrel is aligned with and in fluid connection with the at least one opening in the wall of the outer barrel whereby the fluid is permitted to flow into the chamber, and when the valve member is positioned in the closed position the at least one opening in the wall of the inner barrel of the valve member is aligned with the wall of the barrel whereby fluid is prevented from flowing into the chamber. (emphasis added)

It is respectfully submitted that claims 18-20(as amended) are patentable over Ingram ('343). Therefore it is respectfully requested that the Examiner withdraw the rejection as applicable to Applicant's claims 18-20, as amended, as being anticipated by Ingram ('343) and pass such claims to issue.

REJECTION UNDER 35 U.S.C § 103

In the Office Action dated August 10, 2005, the Examiner also rejected claims 2 and 3 under 35 U.S.C. §103(a) as being unpatentable over Reed in view of Harstad (5,402,821). In support of the rejection the Examiner stated:

Regarding claims 2 and 3, Reed discloses the vessel assembly as claimed. Reed does not have an elongated opening and a closure member inserted in the elongated opening. However, Harstad discloses an elongated opening (52 in Figure 6) containing a closure member (48 in Figure 6) for the purpose of selective positioning of the closure device and permitting the flow of the fluid to be adjusted when advantageous or necessary. Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to add the elongated opening with closure member of Harstad to the vessel assembly of Reed in order to regulate the opening of the valve and being able to stop the rotation of the valve when the valve is in the full open or full close position.

The before stated rejection of Applicant's claims 2 and 3, as amended, is believed obviated in light of the amendments to such claims. That is, claims 2 and 3 have been amended to depend from newly added base claim 26, a claim indicated allowable by the Examiner. That is, newly added claim 26 contains each and every limitation of original claim 11, its base claim original claim 1 and intervening claim 4. Therefore, since claims 2 and 3, as amended, contain in addition to their respective limitation each and every limitation of the vessel assembly of claim 26, is Applicant's belief that such claims are patentable over the art of record and thus no further comments concerning the Examiner's rejection of claims 2 and 3 (as amended) under 35 U.S.C. §103(a) as being unpatentable over Reed in view of Harstad is believed necessary. Therefore, it is respectfully requested that the examiner withdraw such rejection and pass such claims to issue.

In the Office Action the Examiner also rejected Applicant's claim 15 under 35 U.S.C. §103(a) as being unpatentable over Reed in view of Burnworth ('455). For reasons set forth hereinbefore, it is respectfully submitted that claim 15 is patentable over the art of record in that claim 15 has been amended to depend from newly added claim 26, a claim indicated allowable by the

Examiner. Accordingly, claim 15 (as amended) contains each and every limitation of newly added claim 26 as well as the additional limitation set forth in claim 15.

In view of the above, it is respectfully submitted that claim 15 is patentable over the art of record and Applicant requests that the Examiner withdraw the rejection of claim 15 under 35 U.S.C. §103(a) as being unpatentable over Reed in view of Burnworth ('455) and pass such claim to issue.

ALLOWABLE SUBJECT MATTER

In the Office Action the Examiner objected to claim 11 as being dependent upon a rejected base claim. However, the Examiner stated that such claim would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. The indication of allowability of claim 11 is noted with appreciation. Accordingly, claim 11 has been rewritten as newly added claim 26 and contains in addition to the limitations set forth in original claim 11, each and every limitation of its base claim (claim 1) and the intervening claim 4.

PRIOR ART MADE OF RECORD

The prior art made of record and not relied upon by the Examiner has been reviewed. However, it is Applicant's belief that such prior art is no more pertinent to Applicant's disclosure than the Prior Art Cited by the Examiner and hereinbefore discussed. Therefore, no additional comments are believed necessary concerning the prior art of record.

INFORMATION DISCLOSURE STATEMENT

The Examiner's consideration and review of the references set forth on the Information Disclosure Statement submitted by Applicant is noted with appreciation.

CONCLUSION

In view of the above, Applicant respectfully suggests the specification and claims are now in a condition for allowance and requests issuance of a Notice of Allowance thereof.

Should the Examiner have any questions or comments concerning the before-mentioned amendments to the application or any other matter, Applicant's attorney will welcome the opportunity to discuss the same with the Examiner.

Respectfully submitted,

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